IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 941 OF 2003

IN

SUM. SUIT NO. 1684 OF 2003

Dipan Jugalkishore Mehta .. Plaintiff

vs.

Prakashlal Suneja .. Defendant.

Ms. Prarana Srivastav i/by G. Bhuta

for plaintiff.

Ms. Vaishali Dholakia i/by N. Srivastava

for defendant.

CORAM : S.U. KAMDAR, J.

DATE : 16th August, 2005.

P.C.

. The present suit is filed on the basis of goods sold and delivered under invoices dated 6.4.99 and delivery challan no. MST/360 of the same date. The goods delivered are H.R. Coils, weighing about 2.850 m.t. valued at the sum of Rs. 65,550.00 and loading and unloading and cartage charges of Rs. 1570.00 totalling to Rs. 67,120/-. The defendant admits receipt of the goods. However, it is

contended that the goods are defective and, therefore, there is no liability to pay. It is the case of the defendant that the fact that the goods are defective was intimated to the plaintiff orally. The defence raised, in my opinion, is not such that the defendant should be granted an unconditional leave to defend. In my opinion, the defence raised is not tenable in law and in view thereof, I am passing the following order.

> The defendants are directed to deposit a sum of Rs. 67,120/- within a period of three weeks from today, failing which the plaintiff will be entitled to a decree.

2. Summons for judgment disposed of accordingly.